THE HONOURABLE SRI JUSTICE NOOTY RAMAMOHANA RAO

W.P.No.26364 of 1998
Date: 19-07-2007

Between:
N.Gurunath and another

Petitioners

And

Tirupati Tirumala Devasthanam,rep.
by it's Executive Officer, Tirupati

Respondent

THE HONOURABLE SRI JUSTICE NOOTY RAMAMOHANA RAO

W.P.No.26364 of 1998

ORDER:

1. This writ petition has been instituted seeking the following relief:

> *" A writ in the nature of MANDAMUS declaring the action of the respondent in substituting the seniority list dated 19.4.1997 in place of earlier seniority list in proceedings Roc No.C1/17577/Conf. Cell/95 dated 2.3.1997 to the category of Cleaners is arbitrary, illegal and unconstitutional and direct the respondent to follow the seniority as reflected in the proceedings No.C1/17577/Conf.Cell/95 dated 2.3.1997 till all the candidates are exhausted for the purpose of promotion to the higher post of server and further direct the respondent not to follow the seniority list in Roc.No.TL4/11524/ 94 dated 19.4.97 for any purpose."*

2. A perusal of the Memo bearing Roc.No. TL4/11524/94 dated 19-4-1997 issued by the Executive Officer of the Tirumala Tirupati Devasthanams reveals that the Board of Trustees of the Devasthanam have passed Resolution No.666 dated 27/28-11-1996. Based thereon certain orders have been passed on 03-12-1996 amalgamating the cadres of Helper, Cleaner/Helper and Cleaners working in Tirumala Tirupati Devasthanam canteens under the common category of Cleaners and in pursuance thereof a tentative seniority list of all such men who now stand amalgamated has been prepared and communicated inviting objections from the individuals. Therefore, the Memo dated 19-04-1997 of the Executive Officer, Tirumala Tirupati Devasthanam, which has merely communicated a tentative seniority list of the individuals inviting objections from the affected parties cannot be

interdicted unless it is demonstrated that the Executive Officer of Tirumala Tirupati Devasthanam does not have the necessary power or jurisdiction to do so. No attempt in that regard has been made. Therefore, it is not possible to infer that the Executive Officer of the Tirumala Tirupathi Devasthanam lacks power or jurisdiction to prepare or communicate the tentative seniority list of men working in any of the units over which he exercises administrative control. For this reason, this portion of the relief as prayed for in the writ petition cannot be granted at all.

3. The writ petition proceeds further in seeking certain directions to the respondent to follow the seniority list as reflected in the Proceedings No.C1/17577/Conf. Cell/95 dated 02-03-1997 till all the candidates are exhausted for the purpose of promotion to the higher post of Server. The writ petitioners have not chosen to place on record the copy of the said proceedings dated 02-03-1997. The only material that has been placed on record of this case is (i) the representation dated 31-5-1997, submitted by the first petitioner raising his objections to the tentative seniority list communicated through the memo dated 19-04-1997, (ii) the tentative seniority list dated 19-4-1997 and (iii) the extract of the said tentative seniority list comprising of the names arranged from Serial Nos.1 to 11 and Serial Nos.212 to 244. The seniority list said to have been communicated through proceedings dated 02-03-1997 is elusive. Without even having access to such proceedings, it is not possible for this court to pronounce any opinion thereon.

4. Nextly, the writ petitioners have not mounted any challenge either to Resolution No.666 dated 27/28-11-1996 or the orders passed through proceedings dated 03-12-1996, which have been specifically and adequately referred to in the tentative seniority list communicated through the Memo dated 19-04-1997. In the absence of any challenge to Resolution No.666 or to the consequential orders said to have been passed

on 03-12-1996, no grievance of the writ petitioners in respect of amalgamation of cadres can be entertained. This apart, the persons who are likely to be affected if any decision is rendered on the question relating to the amalgamation of the cadres of Helpers and Cleaners/Helpers, are to be impleaded as party respondents, thus providing them an opportunity to contest the case. It is a settled principle of law that no decision can be rendered behind the back of any person who is likely to be affected. However, none representing those cadres has been impleaded to the above writ petition. Therefore, the above writ petition to the extent of relief prayed for therein is not sustainable and it deserves to be dismissed.

5. But, however, Sri P.B.Vijay Kumar, the learned counsel appearing for the writ petitioners urges that the Tirumala Tirupati Devasthanam had not finalized the tentative seniority list communicated through Memo dated 19-04-1997 so far. If the Tirumala Tirupati Devasthanam has not finalized the tentative seniority list dated 19-04-1997 so far duly taking into consideration and account the objections raised by the writ petitioners, the Tirumala Tirupati Devasthanam may do so by finalizing the seniority list at the earliest at ay rate within a period of three months from now.

6. Subject to this, the writ petition stands dismissed but however without costs.

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NOOTY RAMAMOHANA RAO,J

19-07-2007
Stp